

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ALLAN ZISHKA, et al., On Behalf of
Themselves and All Others Similarly
Situating,

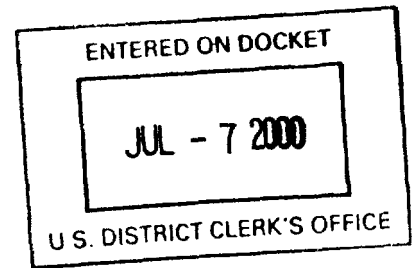
Plaintiffs,

v.

AMERICAN PAD & PAPER COMPANY,
et al.

Defendants.

NO. 3:98-CV-0660-M



ORDER

On this date came before the Court Plaintiff's Motion to Strike, filed herein on November 24, 1998. Having considered the Motion, Defendant's Response, Plaintiff's Reply and the information objected to, the Court GRANTS the Motion in part and DENIES it in part, as follows.

(1) Defendants' proffer of information regarding stock purchases by Defendant Lavine and non-defendant officers and directors of American Pad & Paper Company is proper, as such information is not subject to reasonable dispute and this Court thus takes judicial notice of such facts under FED. R. EVID. 201.

(2) With respect to the BT credit facility, the Court believes it cannot judicially notice such facts to prove the truth of the matter - - that is, that the facility was established - - and thus the


Court will not consider statements regarding that subject in the briefing of the parties, to that extent, the Motion to Strike is granted.

(3) The academic articles upon which Defendants rely will be considered by the Court as authorities, not evidence, and thus will not be stricken.

(4) Since Plaintiffs relied on the Accounting Bulletin, in part, in ¶ 124 of the Complaint, Defendants may rely on other portions of the same document, in the interests of fairness and completeness, so Defendants' references to the Bulletin will thus not be stricken.

Except with respect to Item 2 above, Plaintiff's Motion to Strike is denied.

SO ORDERED this 7th day of July, 2000.


BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE